

October 21, 2003

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

850 Union Bank of California Building  
900 Fourth Avenue  
Seattle, Washington 98164  
Telephone (206) 296-4660  
Facsimile (206) 296-1654

**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E03G0065**

**DANA B. MOWER/TIGER MOUNTAIN LLC**  
Code Enforcement Appeal

Location: 14730 Issaquah-Hobart Road, Issaquah

Appellant: Dana B. Mower/Tiger Mountain LLC  
*represented by* **Bill H. Williamson**, Attorney  
P.O. Box 99821  
Seattle, WA 98139-0821  
Telephone: (206) 292-0411  
Facsimile: (206) 292-0313  
[bhwilliamson@rwllaw.com](mailto:bhwilliamson@rwllaw.com)

King County: Department of Development and Environmental Services  
*represented by* **Greg Sutton**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-7011  
Facsimile: (206) 296-7055

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:

Deny appeal

Department's Final Recommendation:

Deny appeal

Examiner's Decision:

Appeal denied

**EXAMINER PROCEEDINGS:**

Hearing Opened:

September 17, 2003

Hearing Closed:

October 8, 2003

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS OF FACT:**

1. On April 11, 2003, the King County Department of Development and Environmental Services, Code Enforcement Section, issued a notice and order to Tiger Mountain LLC and Fardig Development alleging grading violations at a property located at 14730 Issaquah-Hobart Road. The notice and order alleges grading in excess of 100 cubic yards, filling in excess of 3 feet in depth and excavation in excess of 5 feet in depth without a grading permit; clearing and grading within a wetland and its buffer without required permits or approvals; and inadequate erosion and sedimentation and drainage control measures. Dana Mower filed a timely appeal of the notice and order on behalf of Tiger Mountain LLC, which he owns.
2. A pre-hearing conference was held on this matter on June 10, 2003 and a pre-hearing order issued on June 11, 2003. At the pre-hearing conference the parties stipulated that the notice and order legal description should be corrected to specify that the location of the alleged grading violations is Tract A of short plat no. L97S0016. The primary grading issues were defined as whether the fill placed within Tract A was exempt from permitting requirements, either because it met one of the exception provisions provided at KCC 16.82.050 or was within the scope of actions previously authorized by the County within the review procedures for the short plat.

Although neither Fardig Development nor Rick Fardig appealed the notice and order, it is clear from the record that as development contractor for the short plats Fardig performed the grading in question. With respect to these activities, both Fardig Development and DBM Engineers were operating as agents of Tiger Mountain LLC, and their actions and representations should be regarded as the authorized acts of Tiger Mountain LLC.

3. The Vidos Short Plats were recorded in July 2001 under DDES File Nos. L97S0016 and L97S0017. By that time the property had been sold by the Vidos family to Tiger Mountain LLC. Tract A comprises approximately 7 ½ acres and lies in the northwest corner of short plat L97S0016. The development process for the Vidos Short Plats dates back to April 1997, when Mr. Mower as engineer for the Vidos family submitted an environmental checklist for the short plats for review under the State Environmental Policy Act. Among other things the checklist describes the proposed road system for the plat: “The lots will be served by a proposed private access easement which gains access from Issaquah-Hobart Road.” In response to the question whether the proposal will entail improvements to existing roads or streets, the checklist reiterates its sole reliance on the 50 foot wide private access easement to Issaquah-Hobart Road. The checklist also states that the “majority of the property is on slopes between 20 and 35%” and that “all existing wetlands, as well as their associated buffers, shall be preserved as a portion of this proposal.”
4. As review progressed, however, it became clear that in order to place the access road entrance and the development’s retention/detention pond adjacent to Issaquah-Hobart Road it would be

necessary to encroach on wetland buffers. In addition, a wildlife study performed in September 1997 identified standing snags near the edge of one of the wetlands. After some negotiation it was agreed between DDES and the property owners that a tract should be created in the northwest corner of the property to protect the wetland areas located therein as well as adjacent snags and to provide mitigation for wetland buffer intrusions elsewhere. This is the area now known as Tract A. DDES issued a mitigated determination of non-significance for the Vidos Short Plats on March 3, 1998, which contained the following condition: "No clearing or grading shall occur within the 'snags' habitat area identified on the Wildlife Habitat Map, an attachment to the wildlife study dated September 15, 1997. This area shall be identified on any required engineering or grading plan prior to final engineering plan approval."

5. Engineering plans for short plat construction were approved by DDES at the end of May 2000. A 6.9 acre sensitive area tract is shown in the northwest corner of the property, and sheet 13 of 14 contains the following notation: "Sensitive area tract is for mitigation and buffer averaging for wetland C, wetland B, snags, habitat and steep slopes." Outside the designated wetland areas within this tract are shown 12 snags in an elongated cluster that generally trends from southwest to northeast. An area within the tract lying southeast of the snag area is shown on the plans as approved for clearing and grading for the development of the site access road. The SEPA condition is recited on the face of the engineering plans as well as a restrictive covenant providing for the common ownership of sensitive areas tracts in order to assure "the ownership, maintenance and protection of the tracts." The covenant contains the obligation to "leave the tracts undisturbed" unless DDES approves an alteration. The covenant also relates that any violation of its terms "shall constitute a sensitive areas violation and may be subject to the imposition of sensitive areas penalties (or civil penalties) as outlined in King County Code Title 23." Finally the plan notes require approved engineering plans for all road improvements and prohibit direct vehicular access to Southeast Tiger Mountain Road from lot 4 of short plat no. 1. Sheet 9 of the engineering plans also notes that "these plans are approved for standard road and drainage improvements only."
6. As recited previously, the final short plats were recorded in July 2001 with Tract A shown as a sensitive areas tract at 7 ½ acres. The slightly larger size for the dedicated tract than that described on the engineering plans is likely explained by the fact that the engineering plans excluded the access road while the final plat shows Tract A extending to the middle of the roadway. The final plat also shows a 20 foot water line easement running across Tract A from the northwest corner of the property southeast to a bulb in the access road. The restrictive covenant described above in the engineering plans also appears in a modified form as a final plat note.
7. Although not shown on either the final plat or the engineering plans, Tract A also contains a network of old logging roads that originally connected Issaquah-Hobart Road with Southeast Tiger Mountain Road to the north. While the roads within the developed portion of the plat have largely been obliterated, the old logging road network continues to exist in Tract A. Southeast Tiger Mountain Road lies approximately 400 feet north of the northwest corner of Tract A, and a historic connection exists between the two points along an undeveloped road right-of-way. The logging roads within Tract A itself trend toward the southeast and form a crisscross network consisting of two spurs to the northwest, two spurs to the southeast and two spurs to the northeast. A cleared landing area exists in the general vicinity of the intersection of these various

logging road spurs. As shown in a map created by DBM Engineers that has been appended to the exhibit 14 photographs, this cleared landing area extends about 350 feet along its southwest to northeast axis and is about 150 feet at its widest point. It is within this landing area that the fill has been deposited which is the subject of this enforcement action. This filling activity occurred in the spring of 2001, shortly after the property was purchased by Tiger Mountain LLC.

This logging road network appears to have been established by the Vidos family back in the 1950's and expanded from time to time until the early 1990's when the last site logging occurred. Joe Vidos testified that a portion of the network links to a wetland spring that he still uses as a domestic water source and that he traverses the road on a regular basis for water system maintenance. Tiger Mountain LLC managing member Dana Mower also testified that the roads were used by technical consultants and others within the short plat development process. Mr. Mower also claims that these logging roads have legal existence under a series of deeds dating back to the 1960's, copies of which he submitted to the record as exhibit 42. But these deeds simply refer to "the existing private road on this property" and, as noted by the attached title report, do not provide sufficient information to determine specific easement locations.

8. Joe Vidos is the complainant in this proceeding and Dana Mower is the Appellant; not surprisingly, their descriptions of the property are often at odds. Probably the most objective characterization of this logging road network as it may have existed prior to site development is contained in the 1997 Jones and Associates Wildlife Habitat Study. It provides the following description:

"The topography slopes in a northwesterly direction, with slopes ranging from 12% to 25%. A driveway, located in the southwest corner of the property leads from the Issaquah-Hobart Road to Frank Vidos' residence. An old dirt road covered in herb vegetation leads from the bottom of the driveway to the north half of the property, turns west, and finally curves back to the south, ending on the east side of the site. There are numerous old trails throughout the property stemming from this primary road, as well as an area in the southwest corner of the property, which has been cleared of trees."

As described above, historically the most heavily used portion of this prior road network lay in the south half of the property, where it has now been largely superseded by short plat development. The only certain future use of the old system involves the route used by Joe Vidos to maintain his water facilities. No legal access to the short plat lots from Southeast Tiger Mountain Road to the north through Tract A has been approved by DDES. Accordingly, other than to reach Mr. Vidos' domestic water facilities, this old road network no longer has any obvious access value.

9. The areal extent of the fill placed by Tiger Mountain LLC in Tract A is not greatly in dispute. It generally corresponds to the previously cleared landing area located in the middle of the tract. Joe Vidos measured the fill area at 300 feet in length and 175 feet in width. These dimensions generally correspond to Mr. Mower's drawing attached to exhibit no. 14.
10. The question of fill depth is more controversial. No one claims to have done a depth measurement based on a boring through the fill layer. Greg Sutton of DDES estimated the fill depth to reach 15 to 20 feet on its northwest side based on its nearly level profile in an area

where the short plat topographical mapping shows a 15-25% grade change. Joe Vidos also estimated the fill to be in the 15 foot depth range based on its height around trees located at the fill margin. The exhibit no. 14 photographs substantiate that the fill depths are greater than 5 feet. Photographs 1, 2 and 3 taken at the northwest margin of the fill show at least a 5 foot rise. Photographs 4, 10, 22 and the 7, 8, 9 composite all show a fill edge elevated above the surrounding undisturbed area a vertical distance of at least 5 feet.

11. Based on the documentary record, there is little reason to believe that the depth of fill measures less than a 5 to 15 foot range. A January 13, 2003 letter from Dana Mower to the attorney for Joe Vidos regarding placement of fill within Tract A on top of a 20 foot water line easement states that “a significant amount of earthwork was placed over the existing water line.” In a follow-up letter dated January 16, 2003 from Mr. Mower describes the “existing water main that is buried under approximately 5-15 feet of fill over an area that is approximately 100-150 feet in length.” When questioned about these letters at the hearing, however, Mr. Mower disavowed his earlier estimates, suggesting that they were made simply to appease Mr. Vidos. He stated that he was not actually present when the fill was placed and had not measured its depth. He offered his current belief was that the fill in Tract A was no more than 3 feet in depth at any place.
12. The source of the fill is generally understood to be the retention/detention pond that was excavated at the short plats’ southwest corner. A June 6, 1992 letter from Mr. Fardig to DDES estimated the fill quantity to be 2,000 cubic yards. Since this amount is generally consistent with the R/D pond excavation requirements, DDES has accepted this figure as accurate. Looking at the maps, photographs and engineering plan profiles, our finding is that 2,000 cubic yards should be viewed as a minimum amount.
13. Mr. Mower contends that no significant clearing occurred in conjunction with the placement of the fill, and the record generally supports this assertion. While no doubt the old logging landing area contained shrubs, grasses and perhaps small trees, there is no reason to suppose that such vegetation was removed prior to placing the excavation spoils from the R/D pond.
14. There is also no direct evidence that any protected snags within Tract A were buried beneath the fill. Nor is there any real evidence that none were buried. The 2000 engineering plans show snags existing within the fill area, but it is entirely possible that some may have fallen of their own accord prior to the grading activity. Clearly, no snags now remain in the filled area. Since the grading activity occurred in spring 2001 less than a year after the engineering plans were approved, it would be reasonable to surmise that at least a few protected snags were sacrificed to the grading activity.
15. There is also a dispute in the record as to whether the fill area created by the Appellant in Tract A impinges upon either of two adjacent wetland areas to its west. The mapping attached to exhibit no. 14 suggests that the fill was close enough to the wetlands to at least encroach upon their 50 foot regulatory buffers. Mr. Vidos testified as to seeing fill in a wet area in the vicinity depicted by composite photographs 7, 8 and 9 of exhibit no. 14. Photographs 8 and 9 are consistent with this testimony, showing a steep drop from the fill area into a shadowy brush area. Photographs 17, 18 and 22 show similar topographic relationships where a fill mound drops into a depression. Photograph 17 in particular depicts vegetation consistent with a wet depression. The photograph

with the most probative value, however, is no. 20, which shows the fill edge intruding into an area dominated by skunk cabbage. Skunk cabbage is an obligatory wetland plant requiring significant wetland hydrology for its growth.

16. KCC 16.82.050 C exempts from grading permit requirements the “maintenance of existing driveways or private access roads within their existing road prisms.” Although the term “road prism” is not defined within the code, it is a commonly used term in the road construction industry. Staff geologist Steve Bottheim correctly identified the road prism as including the travel way and the associated shoulder and ditch. We take notice that this definition is consistent with those generally provided in the road industry. A typical definition that is specifically applicable to an old logging road can be found in the “Glossary of Forestry Terms” on the Province of British Columbia website, which defines a road prism as “the area of ground containing the road surface, cut slope and fill slope.”
17. Under any accepted definition, the grading that occurred on Tract A far exceeded the widths of any road prisms that might have existed there. Mr. Vidos testified that the logging roads on Tract A were between 12 and 14 feet wide. The area that was filled by the Appellant does not appear to have been in any location less than 90 feet wide. Therefore the filling greatly exceeded the width of the road prism at any relevant location within the fill. The fact that these logging roads may have been surrounded by previously cleared landings is of no regulatory consequence, because the code exception is limited to maintenance of the road prism.
18. Notwithstanding Mr. Mower’s persistent assertions that the placement of fill in Tract A was part of a road maintenance project, it appears that the fill placement made the historic roads in Tract A less useable as transportation routes. Joe Vidos spent considerable time testifying as to how he had used the old logging roads in Tract A to access his water system, that he maintained the roads simply by trimming the vegetation, and was never required to fill or ballast them. He stated that prior to the filling he could drive his pick-up truck up to his spring source without serious difficulty. Mr. Vidos testified that after filling by the Appellant he can no longer access his water tank because of the uneven fill surface and the logs that have been placed in it. Mr. Vidos’ descriptions are supported by the photographs in exhibit no. 14, which show a wet, thick, lumpy mixture of soils and logs. But it is also clear, as emphasized by Mr. Mower, that over time the fill has dewatered and hydro-seeding has produced a new layer of vegetation, the effect of which is to make travel over the filled areas less difficult. On balance, however, we believe that Mr. Vidos is correct in his assertion that the net effect of Appellant’s filling in Tract A has been to impair transportation across the old logging roads, not improve it.
19. A related question is whether placing a thick, uneven wet mass of excavated fill on a road bed can accurately be described as road maintenance. Referring to the King County Road Standards, we note that the information relating to road construction describes materials such as asphalt, asphalt base, cement, crushed rock, etc. Nowhere in the Road Standards is there any suggestion that ordinary excavation spoils are suitable for road construction. Moreover, the road construction data describe typical road thicknesses in the range of 12 to 18 inches for paved access roads and 4 inches for gravel roads. See, generally, KCRS section 4.01 and drawing 1-004.

Finally, in a June 6, 2002 letter to DDES, Mr. Mower’s partner, Rick Fardig, who appears to

have actually done the fill work, made the following statement:

“Since this material was placed which now prevents vehicle access to this area, significant vegetation has grown. In addition to this vegetation, (which was non-existent prior to the placement of the fill) various wooden debris has been placed in this area in order to encourage the growth of vegetation, and further block any future traffic flows or use as logging roads or access near the site. These operations would have occurred whether or not the fill was placed in this area since these logging roads were no longer required once the main road was developed on the property (emphasis in original).”

20. On the issue of erosion control, both Mr. Vidos and Greg Sutton of DDES testified to seeing muddy water draining off of the fill material. This testimony is supported by the photographs in exhibit no. 14, most clearly in composite photograph 1, 2, 3. In addition the exhibit no. 14 photographs show fabric fencing along the fill edge, presumably at the wetland boundaries. As stated by Mr. Sutton, the fabric fencing appears to have been breached in a number of places by logs and fill. Since the placement of the fill in 2001 the surface has been hydro-seeded and grass has established itself, as depicted in Mr. Mower’s photographs.
21. As emphasized by Mr. Mower and disclosed by the record, the current enforcement action is also part of a larger dispute between him and Joe Vidos. This dispute affects this proceeding to the extent that both Mr. Mower and Mr. Vidos are primary witnesses and their descriptions of key features and conditions on the property differ in various important respects. The findings required to determine this appeal necessitate therefore some assessment of the credibility of these two witnesses. Although Mr. Mower is highly trained and more knowledgeable generally regarding engineering and construction practices, we found Mr. Vidos’ testimony describing conditions on the site to be overall the more reliable. His descriptions were based on years of familiarity with the property, were internally consistent and supported by the exhibit no. 14 site photographs and staff testimony.
22. The testimony of Mr. Mower, on the other hand, was rife with inconsistencies and contradictions. First, there is simply the absurdity of maintaining that the placement of a thick, lumpy, gelatinous mass of excavated fill in Tract A should be seriously regarded as an effort at road maintenance. Second, Mr. Mower has insisted unequivocally throughout the proceeding that no snags were buried, no vegetation removed and no wetlands impinged upon by the grading and fill activity. Yet, under questioning at the hearing, Mr. Mower testified that he had not been present at the site when the fill was placed and had no real idea of how thick it might be. If one was not on site when the filling occurred, then one is neither in a position to describe how the process was carried out nor what is underneath the fill.

Finally, there is the specific matter of Mr. Mower’s assertion in the letter to Mr. Vidos’ lawyer that the fill depth was between 5 and 15 feet. This assertion was contradicted by his later testimony that he did not know what the fill depth actually was and he only represented the 5 to 15 feet range to Mr. Vidos in order to placate him. However one may view the underlying physical reality, it is clear that both statements cannot simultaneously be true. One of the two is necessarily a deliberate fabrication. Mr. Mower either misrepresented his level of information in the letter to Mr. Vidos’ attorney or he was dissembling in his hearing testimony. This transaction establishes Mr. Mower’s willingness to sacrifice veracity to expediency.





23. Based in part upon our determination that Mr. Vidos was a more credible witness than Mr. Mower, we find that the dimensions of the fill placed by the Appellant on Tract A were approximately 175 feet by 300 feet in surface area, 5 to 15 feet in depth, and well over 2,000 cubic yards in total quantity. This fill on its northwestern and western edges impinges in locations on regulated wetlands and their buffers, and at least some snags identified on sheets 13 and 14 of the Vidos short plat engineering plans have been covered by fill.

#### CONCLUSIONS:

1. DDES staff has made a *prima facie* showing that the quantity and location of the fill placed within Tract A are of sufficient magnitude and such character as to require a King County grading permit. The Appellant's response is that this filling activity qualifies as exempt from grading permit requirements under one of the exceptions stated at KCC 16.82.050. These exemption claims are affirmative defenses for which the Appellant bears the burden of proof.
2. KCC 16.82.050 C exempts from grading permit requirements the "maintenance of existing driveways or private access roads within their existing road prisms, provided that the performance and restoration requirements of this chapter are met and best management practices are utilized to protect water quality." The historic logging roads in Tract A do not continue to provide access to the Vidos Short Plat lots. Primary access is now from the south to the Issaquah-Hobart Road via the on-site short plat access road. Current use of the logging road system on any regular basis is limited to providing access to Mr. Vidos' spring and water pipe for maintenance of his domestic water system, which access has been impaired by the filling activity.
3. The placement of fill in Tract A by the Appellant does not meet the exemption requirements of KCC 16.82.050 C. The placement of fill exceeded the dimensions of the existing logging roads to encompass a large cleared landing area. This landing area is outside the road prisms. Moreover, the placement of a thick layer of wet excavation spoils on a roadway does not qualify as maintenance. The material is unsuitable for road construction and its thickness far exceeds standard maintenance requirements.
4. KCC 16.82.050 F exempts from grading permit requirements "any clearing or grading for roads within a preliminary or finally approved residential plat which has been approved by the director and for which a financial guarantee has been posted." This exemption applies to plat roads identified on approved engineering plans and reviewed by the County for compliance with the King County Road Standards. The Tract A logging roads are not shown on the engineering plans, no proposals for their improvement were submitted to DDES by the Appellant, and the fill work within the old road areas does not comply with the King County Road Standards. Moreover, as noted above, the fact that the fill dimensions greatly exceeded any areas necessary for road usage places such activity categorically beyond the parameters of the exemption stated at KCC 16.82.050 F. Both procedurally and substantively, the Appellant has not met the exception requirements stated at KCC 16.82.050 F.
5. KCC 16.82.050 I provides the following exception from grading permit requirements:  
  
"Clearing or grading within a preliminary or finally approved residential plat not involving excavation exceeding 5 feet in vertical depth or any fill exceeding 3 feet in vertical depth,

regardless of the amount of material to be removed; provided that this exception does not apply if the clearing or grading is within a sensitive area as regulated in KCC Chapter 21A.24 or an area placed into tracts or easements pursuant to KCC 21A.12.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to KCC Chapter 21A.14 unless the proposed activity is otherwise exempt under KCC Chapter 21A.24.”

The exemption quoted above is the most permissive of those relied upon by the Appellant in that it authorizes any quantity of fill material to be removed and does not appear to create procedural requirements for staff review. Nonetheless, the Appellant does not meet the requirements of this exception because the fill in Tract A exceeds 3 feet in vertical depth and grading has occurred within sensitive areas. The sensitive areas include the Tract A wetlands and their buffers as well as Tract A itself to the extent that any alterations of the tract require prior DDES review and approval. The burial of snags under fill in contravention of the SEPA MDNS condition constitutes a violation of the Tract A protective restrictions.

6. The grading violations cited within the notice and order are for grading in excess of standard grading code quantitative thresholds, clearing and grading within the wetland and its buffer, and for inadequate erosion and sedimentation or drainage control. The record abundantly demonstrates that the Appellant’s grading in Tract A exceeded 100 cubic yards in quantity and constituted filling in excess of 3 feet in depth. The record also establishes that the grading activity impinged upon the Tract A wetlands and their buffers. The Appellant has not met its burden of proof to demonstrate that any of the exceptions within KCC 16.82.050 apply to its activities; therefore the Appellant is subject to grading permit requirements. While the record is ambiguous as to whether further erosion and sedimentation control or drainage measures are required, such review is a normal component of the grading permit application process and will occur as a matter of course when a grading permit application is submitted.
7. Finally, the record contains a number of largely semantic arguments that need to be mentioned but do not merit extensive discussion. First, there is the contention, raised in various forms, that the fact that certain key terms are not defined within the grading ordinance means that the ordinance standards are too indefinite to be enforced. Our view is that these terms carry their ordinary meanings, and when such meanings are supplied, the terms and the standards derived from them are clear and enforceable. Second, the existence or non-existence of private easements corresponding to the Tract A logging roads have no relevance to the question of whether they can be graded without permits. Third, the fact that Tract A may be a “multipurpose” tract does not imply that its clearly stated intent to protect sensitive areas becomes less enforceable. Fourth, the fact that the illegal grading occurred before the formal creation of Tract A within the recorded final plat does not prevent enforcement of its restrictions because such restrictions were also made requirements of the approved engineering plans.

#### DECISION:

The appeal is DENIED.

**ORDER:**

1. No penalties shall be assessed against the Appellant or its property if a complete grading permit application, including a sensitive areas restoration plan, is submitted to DDES within 21 days of the date of this order. The grading permit application also shall assess the need for further erosion and sedimentation control and drainage measures.
2. If the permit submittal deadline stated in condition no. 1 is not met, DDES may assess penalties against the Appellant and its property retroactive to the date of this order.

ORDERED this 21st day of October, 2003.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 21st day of October, 2003, to the following parties via certified mail:

Dana B. Mower/Tiger Mountain LLC  
502 – 16<sup>th</sup> St. NE, Ste. 312  
Auburn, WA 98002

Bill H. Williamson, Attorney  
Williamson Law Offices  
P.O. Box 99821  
Seattle, WA 98139-0821

TRANSMITTED this 21st day of October, 2003, to the following parties and interested persons of record:

Dana B. Mower/Tiger Mtn. LLC  
502 - 16th St. NE, Ste. 312  
Auburn WA 98002

Joe Vidos  
23913 SE Tiger Mtn. Rd.  
Issaquah WA 98027

Bill H. Williamson  
Williamson Law Offices  
PO Box 99821  
Seattle WA 98139-0821

Steve Bottheim  
DDES/LUSD  
Site Development Services  
MS OAK-DE-0100

Elizabeth Deraitus  
DDES/LUSD  
Code Enf. Supvr.  
MS OAK-DE-0100

Nick Gillen  
Wetland Review  
DDES/SDSS  
MS OAK-DE-0100

Patricia Malone  
DDES/LUSD  
Code Enf. Section  
MS OAK-DE-0100

Randy Sandin  
DDES/LUSD  
Site Development Services  
MS OAK-DE-0100

Heather Staines  
DDES/BSO  
Code Enf.-Finance  
MS OAK-DE-0100

Greg Sutton  
DDES/LUSD  
Code Enforcement Section  
MS OAK-DE-0100

**NOTICE OF RIGHT TO APPEAL**

The action of the hearing examiner on this matter shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of this decision. The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.

MINUTES OF THE SEPTEMBER 17 AND OCTOBER 8, 2003 PUBLIC HEARING ON  
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E03G0065.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was Greg Sutton, Nick Gillen, Gary Casad and Steve Bottheim representing the Department; and Bill Williamson, representing the Appellant; Dana Mower, Jeff Jones and Joe Vidos.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES Staff Report to the Hearing Examiner
- Exhibit No. 2 SEPA for Vidos Short Plat
- Exhibit No. 3 Wildlife Study dated September 15, 1997 for Short Plat L97S0016/L97S0017  
Prepared by Jennifer Vanderhoof and Jeffery S. Jones
- Exhibit No. 4 Short Plat L97S0016; Maps & Correspondence
- Exhibit No. 5 DDES Notices of Violation and Charges dated April 12, 2002
- Exhibit No. 6 DDES Notice of Violation and Charges dated April 23, 2002
- Exhibit No. 7 DDES Notice of Violation and Charges dated May 20, 2002
- Exhibit No. 8 Letter from Rick Fardig to Steve Townsend dated June 6, 2002
- Exhibit No. 9 Memorandum to Steve Townsend from Nick Gillen dated June 11, 2002
- Exhibit No. 10 Letter to Rick Fardig from Steve Townsend dated June 25, 2002
- Exhibit No. 11 Letter to Mr. & Mrs. Joe Vidos from Aaron L. Adee dated December 17, 2002
- Exhibit No. 12 Letter to Lee Burdette from Dana Mower dated January 13, 2003
- Exhibit No. 13 Letter to Lee Burdette from Dana Mower dated January 16, 2003
- Exhibit No. 14 Site Map with Photographs taken by Greg Sutton from site visit of March 28, 2003;  
Included are Photographs taken by Mr. Vidos on March 27, 2003
- Exhibit No. 15 Letter to Tiger Mountain, LLC from Greg Sutton dated April 11, 2003 with a copy of  
Notice and Order
- Exhibit No. 16 Notice and Statement of Appeal dated April 30, 2003
- Exhibit No. 17 Letter to Greg Sutton from Dana Mower dated May 7, 2003
- Exhibit No. 18 Pre-Hearing Order and Notice of Hearing dated June 11, 2003
- Exhibit No. 19 Letter to Greg Sutton from Dana Mower dated June 19, 2003
- Exhibit No. 20 Kroll Map Page Showing the Subject Property
- Exhibit No. 21 DDES GIS Map showing 1996 Aerial Photograph of the Property
- Exhibit No. 22 DDES GIS Maps showing 2000 Aerial Photograph of the Property and Sensitive Areas
- Exhibit No. 23 Tax Parcel and Situs Information from DDES Computer Files
- Exhibit No. 24 File Case Notes from DDES Permits Plus Computer Files
- Exhibit No. 25 Site Map Showing Location of the Property
- Exhibit No. 26 Environmental Checklist dated April 22, 1997
- Exhibit No. 27 Section 16.82-Grading Code
- Exhibit No. 28 DDES Administrative Interpretation Number 12; Normal and Routine Maintenance

- Exhibit No. 29 King County Code 21A.06.1415; Definition of Wetlands
- Exhibit No. 30 King County Witness List for the August 17, 2003 Hearing
- Exhibit No. 31 Engineering Site Plans for L9900019/97S0016-17 from Dana Mower
- Exhibit No. 32 Final Plat Map
- Exhibit No. 33 Photographs taken by Dana Mower dated July 6, 2003
- Exhibit No. 34 Letter to Dana Mower from Jeffery S. Jones dated September 17, 2003
- Exhibit No. 35 Letter to Greg Sutton from Dana Mower dated April 30, 2003
- Exhibit No. 36 Letter to Stafford Smith from Frank Vidos dated September 15, 2003
- Exhibit No. 37 Letter to Lee Burdette from Rick Fardig dated November 15, 2002; *Not Admitted  
Into the Record*
- Exhibit No. 38 Plat Map With Photo Locations
- Exhibit No. 39 Roads on Hand drawn Sketch
- Exhibit No. 40 Attachment to Wildlife Study (Exhibit No. 3) done by Mr. Jones
- Exhibit No. 41 Notice of Violation & Charges
- Exhibit No. 42 Warranty Deeds
- Exhibit No. 43 Photographs taken by Dana Mower dated September 18, 2003

SLS:gao  
E03G0065 RPT